

MORGAN, LEWIS & BOCKIUS LLP

1701 Market Street

Philadelphia, PA 19103

215.963.5268

(SB-5199; SH-8178)

**Attorneys for Defendant, Educational Commission for Foreign Medical Graduates
(ECFMG)**

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
NEWARK VICINAGE**

ABDUL J. MALIK,

Plaintiff,

v.

**EDUCATIONAL COMMISSION FOR
FOREIGN MEDICAL GRADUATES,**

Defendant.

Civil Action No.

NOTICE OF REMOVAL

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW JERSEY**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Educational Commission for Foreign Medical Graduates (“Defendant” or “ECFMG”), by and through its attorneys, Morgan, Lewis & Bockius LLP, hereby removes this action to the United States District Court for the District of New Jersey from the Superior Court of New Jersey, Law Division, Hudson County. The grounds for removal are as follows:

1 Pursuant to Rule 10.1(a) of the Local Civil Rules, the addresses of the named parties are as follows: Plaintiff Abdul J. Malik (“Plaintiff”) stated in his Complaint that he is a resident of Jersey City, New Jersey and resides at 99 Manning Avenue, Jersey City, NJ 07304.

According to the Complaint, he is appearing on behalf of himself. ECFMG is located at 3624 Market Street, Philadelphia, PA 19104, and is represented by Morgan, Lewis & Bockius LLP, 1701 Market Street, Philadelphia, PA 19103.

2. On July 12, 2004, Plaintiff filed a civil action in the Superior Court of New Jersey, Law Division, Hudson County, captioned Abdul J. Malik v. Educational Commission for Foreign Medical Graduates, Docket No. HUD-L-3697-04.

3. The Complaint was served upon Defendant ECFMG on August 6, 2004.

4. Accordingly, Defendant has filed this Notice of Removal within thirty (30) days of service of the Complaint, pursuant to Fed. R. Civ. P. 6(a). It, therefore, has timely filed the Notice pursuant to 28 U.S.C. §1446.

5. No other proceedings have been held in this action. As required, the Summons, Complaint, and Case Information Statement are attached as Exhibit A. The Complaint constitutes all process, pleadings, and orders received by Defendant in this case.

6. In his Complaint, Plaintiff asserts a claim against Defendant for disability discrimination under the Americans with Disabilities Act (“ADA”), Title III.

7. The ADA, Title III, is a United States statute, found at 42 U.S.C. §§ 12181 - 12189.

8. In this action, the matter in controversy, exclusive of interest and costs, exceeds the sum of seventy-five thousand dollars (\$75,000.00). Plaintiff seeks over twenty-million (\$20,000,000.00) dollars in damages stemming from the alleged discrimination.

9. Plaintiff, at all pertinent times, was and is a citizen of the State of New Jersey. See Complaint.

10. Defendant ECFMG is organized under the laws of Illinois and has its principal place of business in Pennsylvania. For purposes of 28 U.S.C. § 1332, therefore, Defendant ECFMG is considered a citizen of Illinois and of Pennsylvania.

1 Because Plaintiff and Defendant are citizens of different States, there is complete diversity in this action. There are no other named parties to the case.

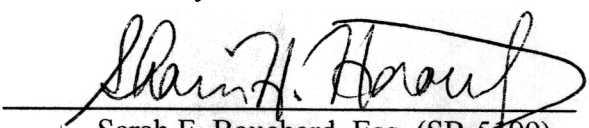
12. Accordingly, Defendant removes this action. Pursuant to 28 U.S.C. §1441(a), the above-captioned matter is a civil action over which this Court has original jurisdiction under either of two provisions: (1) 28 U.S.C. § 1331 (Federal question) that allows for removal in a lawsuit arising under the laws of the United States; or (2) 28 U.S.C. § 1332 (Diversity of citizenship) that allows for removal in a lawsuit between citizens of different States when the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs. Either provision, on its own, provides original jurisdiction to this Court

13. Pursuant to 28 U.S.C. §1446(d), written notice of the filing of this Notice of Removal will be given to Plaintiff, and a copy of the Notice of Removal will be filed with the Clerk of the Superior Court of New Jersey, Law Division, Hudson County.

WHEREFORE, Defendant respectfully requests that this action be removed from the Superior Court of New Jersey, Law Division, Hudson County, and that this Court take jurisdiction over further proceedings.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP
Attorneys for Defendant ECFMG


Sarah E. Bouchard, Esq. (SB-5199)
Sharri H. Horowitz, Esq. (SH-8178)

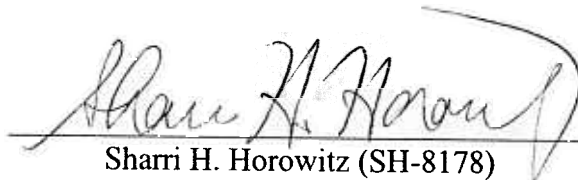
DATED: September 7, 2004

CERTIFICATION

Pursuant to Local Civil Rule 11.2, the undersigned hereby certifies that the matters raised herein are not the subject of any other pending lawsuit, arbitration, or administrative proceeding except the state court action which is being removed.

MORGAN, LEWIS & BOCKIUS LLP
Attorneys for Defendant

DATED: September 7, 2004



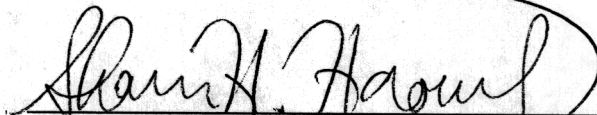
Sharri H. Horowitz (SH-8178)

CERTIFICATE OF SERVICE


I, Sharri H. Horowitz, hereby certify that a true and correct copy of the foregoing Notice of Removal was served via United States first-class mail this 7th day of September 2004, upon:

Abdul J. Malik
99 Manning Avenue
Jersey City, NJ 07304

Pro Se Plaintiff


Sharri H. Horowitz

Exh A

CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY	
 <p>Use for initial Law Division – Civil Part pleadings (not motions) under Rule 4:5-1. Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or if attorney's signature is not affixed.</p>		PAYMENT TYPE: CK CG CA CHG/CK NO. AMOUNT: OVERPAYMENT: BATCH NUMBER:	
ATTORNEY/PRO SE NAME ABDUL J. MALIK		TELEPHONE NUMBER (201) 333-7441	
FIRM NAME (if applicable)		COUNTY OF VENUE	
OFFICE ADDRESS 99-MANNING Ave JERSEY CITY NJ 07304		DOCKET NUMBER (When available)	
		DOCUMENT TYPE L-3697-04	
		JURY DEMAND <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
NAME OF PARTY (e.g., John Doe, Plaintiff) ABDUL MALIK Prose Plaintiff		CAPTION Malik vs. ECFMG	
CASE TYPE NUMBER (See reverse side for listing) 618		IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, LIST DOCKET NUMBERS	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN	
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
A. DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		IF YES, IS THAT RELATIONSHIP <input type="checkbox"/> EMPLOYER-EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input checked="" type="checkbox"/> BUSINESS	
B. DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION:			
<input checked="" type="checkbox"/> DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION: _____	
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, FOR WHAT LANGUAGE: _____	
ATTORNEY SIGNATURE <i>Abdul J. Malik</i>			

Revised effective 3/1/04

received 8-6-04 at 3:28 PM
 CSS
 8-6-04

FORM A
SPECIAL CIVIL COMPLAINT

ABDUL J. MALIK Plaintiff(s) SUPERIOR COURT OF NEW JERSEY
(Your name) LAW DIVISION, SPECIAL CIVIL PART

99 Manning Ave HUDSON COUNTY
(Your Address)

Jersey City NJ 07304 Docket No. DC _____
(Zip Code) [COURT USE ONLY]

(201) 333-7441 CIVIL ACTION
(Telephone Number)

COMPLAINT L-3697-04

vs.
Educational Commission Defendant(s) for Foreign Medical Graduates
(Person you are suing) ECFMG

3624 Market Street
(address)
Philadelphia, PA. 19104-2685
(Zip Code)

(215) 823-2293
(Telephone Number)

FILED
TEAM #3

JUL 12 2004

SUPERIOR COURT
OF NEW JERSEY
COUNTY OF HUDSON
CIVIL DIVISION #8

Type or print the reasons you, the Plaintiff(s), are suing the Defendant(s): (See instruction B)

Please Refer to the attached statement.

(You may attach more sheets if you need to)

The amount you, the Plaintiff(s) are demanding from the Defendant(s) \$2,010,000.00 plus interest and
\$ 5,000.00 for the costs of suing.

At the trial Plaintiff will need:

An interpreter:

An accommodation for a disability: ☒ Yes ☐ No

☐ Yes ☒ No Indicate Language: _____

I certify that the above matter in controversy is not the subject of any other court action or arbitration proceeding now pending or contemplated, and that no other parties should be joined in this action.

Dated: July 08-04

Abdul J. Malik
Your Signature

ABDUL J. MALIK
Name Typed or Printed

NATURE OF THE ACTION

This action is brought under American with Disability Act of 1990, that prevents Discrimination due to a Disability and prohibits Discrimination and Ensures equal opportunities for persons with Disability in Employment, State and Local Government Services, Public accommodations, Commercial facilities and Transportation. Title 111, sec 36, 309 prohibits Discrimination in courses and Examinations based on a Disability and makes it mandatory for private entities conducting such exams to provide necessary accommodations to the Disabled individual. Title 111, sec 306, 309 clearly mentions that any private entity that offers examinations and courses related to applications, Licensing, Certifications or credentialing for secondary or post secondary educations, professional or trade purposes shall offer such Examinations and courses in a place and manner accessible to person with Disability or offer alternative accessible arrangements for such individuals.

JURISDICTION

- 1-This suit is brought and jurisdiction is conferred upon this court pursuant to Title 111, section 309 of Americans with Disability Act of 1990.
- 2-The unlawful action alleged herein below (By ECFMG) was committed within the Jurisdiction of this court.

STATEMENT OF THE CASE

I am a Disabled American, who accidentally became Disabled. I have multiple spinal surgeries done, fusion at cervical spine, fusion at Lumber spine and a number of other procedures over the past decade. I am still having problem of chronic fatigue, chronic pain, Anxiety, stress Disorder and recurrent Headache.

I am constantly on medications for these problems. Since I am a licensed physician from my native country, in spite of my Disability its my desire and a dream to work as a licensed physician in the US.

Foreign physicians to be eligible to qualify for residency training and to be licensed to practice Medicine in US are required to take 4 standardized tests. I was preparing for the 1st test in 2002 and planned to take the test in

2

December 2002. I registered my self and submitted the required fee to take the test. Early in April my condition started getting worse as I started having severe Headache, not responding to routine medications. After many tests the cause was found and treatment started. Due to this I was unable to put maximum efforts to prepare for the test and I requested Educational Commission For Foreign Medical Graduates (an organization that conducts Standard sized tests) to let me extend my date to take the test, based on my Medical condition. I was told that a candidate can only get one extension once and if he or she does not take the test, he or she will lose the registration fee (\$ 675.00).

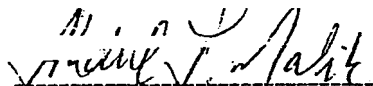
In spite of my repeated requests and providing Medical report from the attending physician, ECFMG didn't credit me registration fee for future tests.

Americans with Disability act requires Employers and organizations to provide necessary accommodations to Americans with Disabilities and ECFMG failed to follow the Law. Due to their denial not only my civil rights are violated I have lost my registration fee and have faced tremendous amount of unnecessary stress and Anxiety, which has adversely affected my health.

RELIEF/DEMAND

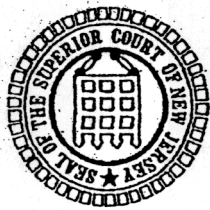
I demand compensatory damages in the amount of \$ 100,000.00 (one hundred thousand Dollars) and punitive damages in the amount of 20,000,000.00 (Twenty Million Dollars).

Respectfully Submitted by,

A handwritten signature in cursive script, appearing to read "Abdul J. Malik", written over a horizontal line.

ABDUL J. MALIK

Dated, July 8, 2004



THE SUPERIOR COURT OF NEW JERSEY

Law Division, Special Civil Part

SUMMONS

YOU ARE BEING SUED!

IF YOU WANT THE COURT TO HEAR YOUR SIDE OF THIS LAWSUIT, YOU MUST FILE A WRITTEN ANSWER WITH THE COURT WITHIN 35 DAYS OR THE COURT MAY RULE AGAINST YOU. READ ALL OF THIS PAGE AND THE NEXT PAGE FOR DETAILS.

In the attached complaint, the person suing you (who is called *the plaintiff*) briefly tells the court his or her version of the facts of the case and how much money he or she claims you owe. **You are cautioned that if you do not answer the complaint, you may lose the case automatically**, and the court may give the plaintiff what the plaintiff is asking for, plus interest and court costs. If a judgment is entered against you, a Special Civil Part Officer may seize your money, wages or personal property to pay all or part of the judgment and the judgment is valid for 20 years.

You can do one or more of the following things:

1. *Answer the complaint.* An answer form is available at the Office of the Clerk of the Special Civil Part. The answer form shows you how to respond in writing to the claims stated in the complaint. If you decide to answer, you must send it to the court's address on page 2 and pay a \$15 filing fee with your answer and send a copy of the answer to the plaintiff's lawyer, or to the plaintiff if the plaintiff does not have a lawyer. Both of these steps must be done **within 35 days (including weekends)** from the date you were "served" (sent the complaint). That date is noted on the next page.

AND/OR

2. *Resolve the dispute.* You may wish to contact the plaintiff's lawyer, or the plaintiff if the plaintiff does not have a lawyer, to resolve this dispute. **You do not have to do this unless you want to.** This may avoid the entry of a judgment and the plaintiff may agree to accept payment arrangements, which is something that cannot be forced by the court. Negotiating with the plaintiff or the plaintiff's attorney will not stop the 35 day period for filing an answer unless a written agreement is reached and filed with the court.

AND/OR

3. *Get a lawyer.* If you cannot afford to pay for a lawyer, free legal advice may be available by contacting Legal Services. If you can afford to pay a lawyer but do not know one, you may call the Lawyer Referral Services of your local county Bar Association.

If you need an interpreter or an accommodation for a disability, you must notify the court immediately.

La traducción al español se encuentra al dorso de esta página.

SPECIAL CIVIL PART SUMMONS AND RETURN OF SERVICE - PAGE 2

Plaintiff or Plaintiff's Attorney Information:

Name: ABDUL J. MALIKAddress: 99-Manning AveJersey City NJ 07304Telephone No.: (201) 333-7441

Demand Amount: \$ 20,100,000.00
 Filing Fee: \$ 200.00
 Service Fee: \$ 5,000
 Attorney's Fees: \$
 TOTAL: \$ 20,105,200.00

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION, SPECIAL CIVIL PART

HUDSON COUNTY
 Special Civil Part

Plaintiff(s)

versus

Educational Commission
for Foreign Medical Graduates.

Defendant(s)

 Docket Number: L-3697-04
 (to be provided by the court)

Civil Action

SUMMONS

(Circle one) Contract or Tort

Defendant(s) Information: Name, Address & Phone

Educational Commission for Foreign Medical Graduates.3624 Market StreetPhiladelphia, PA 19104-2685Ph. 215-823-2293

Date Served: _____

RETURN OF SERVICE IF SERVED BY COURT OFFICER (For Court Use Only)

Docket Number: _____ Date: _____ Time: _____

WM ___ WF ___ BM ___ BF ___ OTHER ___ HT ___ WT ___ AGE ___ MUSTACHE ___ BEARD ___ GLASSES ___

NAME: _____ RELATIONSHIP: _____

Description of Premises _____

I hereby certify the above to be true and accurate:

Court Officer

RETURN OF SERVICE IF SERVED BY MAIL (For Court Use Only)

 I, _____, hereby certify that on _____, I mailed a copy of the within
 summons and complaint by regular and certified mail-return receipt requested.

Employee Signature